

Applicant: Robert Lindsay  
Serial No.: 10/578,694  
Docket No.: 1421-171 PCT/US/RCE  
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**Amendments to the Drawings:**

The attached sheets of drawings includes changes to Figures 1 and 2. These sheets, which includes Figures 1 and 2 replaces the original sheets including Figures 1 and 2.

Attachment: Replacement Sheets  
Annotated Sheets Showing Changes

### **REMARKS**

The application has been amended. The drawings have been amended as described below. Claims 3 and 34-39 have been cancelled. Claims 1 and 43 have been amended. Support for these amendments to the claims can be found in the specification, particularly with respect to paragraphs [0043]. No new material has been introduced. Entry of this amendment and reconsideration is respectfully requested.

The drawings are objected to under 37 C.F.R. §1.83(a) because they allegedly fail to identify the pre-cut band and tab, or may constitute new matter. Applicant traverses the objection. The specification clearly discloses the pre-cut band and tab at paragraph [0025]. However, in the interest in advancing prosecution, Applicant has removed the pre-cut band and tab from the figures, and claims. Submitted herewith are replacement drawing sheets for Figures 1 and 2. In each of these Figures, a reference numeral has been deleted which indicate the pre-cut band. Moreover, the specification has been accordingly amended at paragraph [0025] of the present patent application publication to delete the reference numerals. Applicant traverses this objection and reserves the right to reintroduce these elements in future prosecution. Accordingly, entry of the amendments to the specification and the replacement drawings is respectfully requested.

Claims 1-11, 24-33 and 40-58 are rejected under 35 U.S.C. §103(a) as being unpatentable over European Patent No. 0814025 to Westerman (hereinafter “Westerman”) in view of U.S. Patent No. 6,003,759 to Kenner et al. (hereinafter “Kenner ‘759”) and further in view of U.S. Patent No. 5,911,358 to Kenner et al. (hereinafter “Kenner ‘358”). In view of the amendments and arguments presented herewith, this determination is respectfully traversed.

Independent claims 1 and 43 have been amended to more clearly define the present invention. The method and apparatus of the present invention include end flaps. The end flaps include a curved transverse edge of which each flap is foldably connected to a respective main

panel at a central portion of the curved transverse edge. Further, the end tab has been more clearly defined as being attached to each first end panel.

Westerman discloses a blank including main surfaces, an auxillary surface 7 and a folding edge A between main surface 3, 5 and surfaces 10, 11 and 12. In contrast, the presently claimed invention includes a curved transverse edge of which the flaps are connected to the main panels. However, Westerman fails to teach or suggest curved transverse edges of the end flaps or end tabs connected to end panels.

The Examiner cites the disclosure of Kenner '759 for the teaching of end tabs (46, 54). Kenner '759 teaches end tab 46 extends from panel 16 but end tab 54 extends from an entirely different panel, panel 12. In contrast, the present claimed invention recites a pair of end panels on either end of the same main panel and each end tab extends from the pair of end panels. A single main panel includes a pair of end tabs and a pair of end panels extending therefrom, unlike Kenner '759. Additionally, Kenner '759 fails to teach or suggest end flaps at all. Thus, Kenner '759 fails to overcome the deficiencies of Westerman. Accordingly, Westerman and/or Kenner '759 fail to teach or suggest the presently claimed invention.

The Examiner cites the disclosure of Kenner '358 for the teaching of curved edge end flaps. However, Kenner '358 does not teach or suggest a main panel connected at either end to a central portion of the curved edge of the end flap. Instead Kenner '358 teaches a main panel with an entire curved folding line 34, 44 which separates or attaches the end flap to the main panel, unlike the claimed invention.

Claim 12 is rejected under 35 U.S.C. §103(a) as being unpatentable over Westerman in view of Kenner '759 and Kenner '358, and further in view of U.S. Patent No. 6,513,704 to Perot (hereinafter "Perot"). In view of the amendments and arguments presented herewith, this determination is respectfully traversed.

The above-argument equally applies herein as claim 12 depends from claim 1. Specifically, Westerman and Kenner '759 and Kenner '358 fail to teach or suggest a curved transverse edge of which the flaps are connected at the central portion to the main panels, or a pair of end tabs extending from each end panels of a first main panel. Further, the Examiner acknowledges that Westerman, Kenner '759 and Kenner '358 fail to teach or suggest a sheet material comprising cardboard.

The Examiner cites the disclosure of Perot as allegedly teaching a sheet material comprising cardboard. Perot discloses a packaging box for bottles including two body panels 2,3, intermediate sections 12,13 and bottom panels 14,15. However, Perot does not disclose the end tabs or end flaps as recited in the claims. Therefore, Perot fails to overcome the deficiencies of Westerman, Kenner '759 and Kenner '358. Thus, Westerman, Kenner '759, Kenner '358 and Perot fail to teach or suggest the presently claimed invention.

Claims 13-23 are rejected under 35 U.S.C. §103(a) as being unpatentable over Westerman in view of Kenner '759 and Kenner '358, and further in view of U.S. Patent No. 3,094,265 to Hovland (hereinafter "Hovland"). In view of the amendments and arguments presented herewith, this determination is respectfully traversed.

The above-argument equally applies herein as claims 13-23 depend from claim 1. Specifically, Westerman and Kenner '759 and Kenner '358 fail to teach or suggest a curved transverse edge of which the flaps are connected at the central portion to the main panels or end tabs extending from end panels of a first main panel. Further, the Examiner acknowledges that Westerman and Kenner '759 and Kenner '358 fail to teach or suggest a sheet material comprising a plastic.

The Examiner cites the disclosure of Hovland as allegedly teaching a sheet material comprising plastic. Hovland teaches a corner sealed leak proof container including walls 11-13,

and top/bottom closures 15-18. All foldable edges are linear and all walls are quadrilaterals. Hovland fails to teach or suggest the end tabs or end flaps, as recited in the claims. Therefore, Hovland fails to overcome the deficiencies of Westerman and Kenner. Thus, Westerman, Kenner and Hovland fail to teach or suggest the presently claimed invention.

Claims 34-37 are rejected under 35 U.S.C. §103(a) as being unpatentable over Westerman in view of Kenner '759 and Kenner '358 and further in view of U.S. Patent No. 6,019,276 to Auclair (hereinafter "Auclair"). Applicant traverses the rejection. However, in the interest in advancing prosecution, claims 34-37 have been cancelled. Applicant reserves the right to prosecute these claims in the future.

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### **SUMMARY**

As the claims of the present invention recite a structural feature not found in the cited references, the claims of the present invention as submitted herewith, are believed to be patentably distinct Westerman, Kenner '759, Kenner '358, Perot, Hovland, and/or Auclair. Accordingly, it is respectfully submitted that independent claims 1 and 43, and depending claims therefrom, of the present invention define patentably over the combination of Westerman, Kenner '759, Kenner '358, Perot, Hovland, and/or Auclair.

Having responded in full the present Office Action, it is respectfully submitted that the application is therefore in condition for allowance. Favorable action thereon is respectfully solicited.

The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication, or credit any overpayment, to Deposit Account No. 08-2461. Such authorization includes authorization to charge fees for extensions of time, if any, under 37 C.F.R. § 1.17 and also should be treated as a constructive petition for an extension of time in this reply or any future reply pursuant to 37 C.F.R. § 1.136.

Should the Examiner have any questions regarding this response, the undersigned would be pleased to address them by telephone.

Respectfully submitted,

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